THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CR No. 5259 of 2013 (O&M)
Date of decision: April 4, 2016

Jagbir

...Petitioner

Versus

Ved Ram

...Respondent

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

1. **Whether Reporters of local papers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest?**

Present: Mr. Anil Kumar Rana, Advocate,
for the petitioner.

Mr. MK Sood, Advocate,
for the respondent.

K. KANNAN, J. (Oral)

1. The revision is against the order passed by the appellate court dismissing an application filed under Section 5 read with Section 14 of the Limitation Act, seeking for condonation of delay of 400 days and above in preferring the appeal against the decree of the trial court. Explaining the delay as having resulted by a bonafide prosecution of a revision before this court challenging the rate of interest as granted in the decree as a clerical mistake and inconsistent with the prayer in the pleadings the interest shall be granted at 2.5% per annum, the decree had provided for 2.5% per annum. The application before the trial court had been filed under Section 152 of the Civil Procedure Code, after nearly a year on the assumption that

it was a clerical mistake and there was no bar of limitation for approaching the court for its correctness under Section 152 of the Code. The trial court dismissed the original application filed by the petitioner and brought to challenge the correctness of the said order. This court had granted a liberty to prefer an appeal against the original decree providing for rate of interest at 2.5% per annum. For such a appeal, there has been delay that necessitated the application to be filed under Sections 5 and 14 of the Act, as referred to above.

2. From the narration of facts, it would be evident that there was no challenge to the principal amount and the objection had been only with regard to the rate of interest granted. If the petitioner must have the benefit of contest on merit on the issue of rate of interest, the petitioner will have that remedy only if he pays to the respondent/plaintiff or deposits in court the principal amount covered under the loan transaction which was made subject to suit with interest at 2.5% per annum within four weeks from the date of receipt of copy of the order. If the proof of payment of deposit is made, the court shall number the appeal and dispose of the appeal on merit. If the amount is not deposited, the order already passed shall stand. The impugned order is set aside and the revision petition is allowed condoning the delay but subject to the above condition. If any amount is deposited, the respondent shall be permitted to withdraw the whole amount without any security.

April 4, 2016 **(K.KANNAN)**
prem **JUDGE**